



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2019-0014; FRL-10004-68-Region 4]

**Air Plan Approval; AL and SC: Infrastructure Requirements
for the 2015 8-hour Ozone National Ambient Air Quality Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of the Alabama and South Carolina State Implementation Plan (SIP) submissions provided on August 20, 2018, and September 7, 2018, respectively, for inclusion into their respective SIPs. These approvals pertain to the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2015 8-hour ozone national ambient air quality standard (NAAQS). Whenever EPA promulgates a new or revised NAAQS, the CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA. Alabama and South Carolina certified that their SIPs contain provisions that ensure the 2015 8-hour ozone NAAQS is implemented, enforced, and maintained in their State. EPA has determined that Alabama and South Carolina infrastructure SIP submissions satisfy certain required infrastructure elements for the 2015 8-hour ozone NAAQS.

DATES: This rule will be effective **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2019-0014. All documents in the docket are listed on the www.regulations.gov

web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, 30303-8960. Mr. Lakeman can be reached via electronic mail at lakeman.sean@epa.gov or via telephone at (404) 562-9043.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 2015 (published October 26, 2015, *see* 80 FR 65292), EPA promulgated a revised primary and secondary NAAQS for ozone, revising the 8-hour ozone standards from 0.075 parts per million (ppm) to a new more protective level of 0.070 ppm. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP revisions meeting the applicable

requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. This particular type of SIP is commonly referred to as an “infrastructure SIP.” States were required to submit such SIPs for the 2015 8-hour ozone NAAQS to EPA no later than October 1, 2018.¹

This action is approving Alabama’s August 20, 2018,² SIP revision provided to EPA through the Alabama Department of Environmental Management (ADEM) and South Carolina’s September 7, 2018, SIP revision provided to EPA through the Department of Health and Environmental Control (DEHC), for the applicable infrastructure SIP requirements of the 2015 8-hour ozone NAAQS, with the exception of the interstate transport provisions of section 110(a)(2)(D)(i)(I), pertaining to contribution to nonattainment or interference with maintenance in other states. With respect to the interstate transport provisions of section 110(a)(2)(D)(i)(I), EPA will address these provisions in separate rulemaking actions.

In a notice of proposed rulemaking (NPRM) published on November 26, 2019 (84 FR 65051), EPA proposed to approve the Alabama and South Carolina SIP submissions provided on August 20, 2018 and September 7, 2018 respectively, for the certain applicable infrastructure SIP requirements of the 2015 8-hour ozone NAAQS. The NPRM provides additional detail

¹ In these infrastructure SIP submissions States generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2).

² The August 20, 2018, SIP submission provided by ADEM was received by EPA on August 27, 2018.

regarding the background and rationale for EPA's action. Comments on the NPRM were due on or before December 26, 2019. EPA received no adverse comments on the NPRM.

II. Final Action

With the exception of interstate transport provisions pertaining to contribution to nonattainment or interference with maintenance in other states of section 110(a)(2)(D)(i)(I) (prongs 1 and 2), EPA is approving Alabama's August 20, 2018 and South Carolina's September 7, 2018, SIP submissions for the 2015 8-hour ozone NAAQS. EPA is approving Alabama's and South Carolina's infrastructure SIP submissions for certain infrastructure elements for the 2015 8-hour ozone NAAQS because these elements are consistent with section 110 of the CAA.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The Alabama SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

Because this SIP action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law, this SIP action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120 (Settlement Act), “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” The CIN also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the

U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 15, 2020.

Mary S. Walker,
Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart B – Alabama

2. Section 52.50(e) is amended by adding entry “110(a)(1) and (2) Infrastructure Requirements for the 2015 8-Hour Ozone NAAQS” at the end of the table to read as follows:

§52.50 Identification of plan.

* * * *

(e) * * *

EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
**	**	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2015 8-Hour Ozone NAAQS.	Alabama	8/27/2018	[Insert date of publication in the <u>Federal Register</u> [Insert Federal Register citation]	With the exception of 110(a)(2)(D)(i)(I) (prongs 1 and 2)

Subpart PP – South Carolina

3. Section 52.2120(e) is amended by adding entry “110(a)(1) and (2) Infrastructure Requirements for the 2015 8-Hour Ozone NAAQS” at the end of the table to read as follows:

§ 52.2120 Identification of plan.

* * * *

(e) * * *

Provision	State effective date	EPA approval date	Explanation
**	**	**	*
110(a)(1) and (2) Infrastructure Requirements for the 2015 8-Hour Ozone NAAQS	9/7/2018	[Insert date of publication in <u>Federal Register</u> [Insert Federal Register citation]	With the exception of 110(a)(2)(D)(i)(I) (prongs 1 and 2)

[FR Doc. 2020-01581 Filed: 2/5/2020 8:45 am; Publication Date: 2/6/2020]